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LIBERTY OF THE PRESS.

From the National Intelligencer. PROPOSED REPORT BY MR HALL, OF VT. On Jacontimy Publications.

Honse of Representatives, April 6, 1836.

Mosses Gales & Scaton: In compliance with the written request of several members of the House, which the minerity of the Committee on the Post Office and Post Roads do not feel at liberty to decline, 1 send you, for publication in the Intelligencer, a copy of the Report offered in their behalf to the House, on the 25th altimo, on the subject of "incen-diary publications." Although it retains its o-tiginal form of a Report, it is of course to be deemed but an individual argument, divested of all official character. The request of our

not having been able to concur with the comruittee in any mode of legislation on the subject, respectfully ask leave to submit their

In considering the important subject submit-ted to the committee, the minority have not undertaken to ascertain what remedies may be afforded by State legislation for the evils complained of in the message, or to make any par-ticular examination of the character and tendency of the publications against which the legislation of this Government is recommend-Taking it for granted that, in the opinion of Congress, the publications specified in the message have the dangerous tendency stated by the President, they proceed, at once, to inquire into the duties and powers of this Gov-

ernment in regard to their mail circulation. Supposing the interposition of no constitutional obstacle, either of four modes of legis-lation might be adopted by Congress, to re-steein the mail circulation of these publica-

1. Officers might be ar pointed by the Government to inspect and license all publica-tions before they should be allowed admission into the mail, with power to include those of such character as Congress might designate.

laws of such State.
3. Congress, retaining the State laws as the basis of its legislation, might confine the pen-alties of its laws to the officers of the General

the benefit of a mail circulation was desired. must necessarily operate with extreme harshness. It is obvious that publications could not licensed from an examination of their titles, for those might be no index to their contents; and political newspapers or literary magazines, mostly filled with other matters, might contain brief articles obnoxious to the law, rendering their circulation inadmissible. In order to make the law effectual, a censor must be appointed in the vicinity of every printing press, whose duty it would be to examine every number of every periodical, and every edition of all other publications, for which a mail circulation was sought, and certify their fitness for such circulation to the postmasters; or the postmasters themselves must be creeted into casors, with power to break the envelopes of all packages deposited in their respective offices, to examine their contents, and either recuive & transmit them, or suppress their circulation, as their judgments should determine them to be in compliance with, or a violation of, the law. One of the obvious legal effects of this mode of legislation would be to transfor the power of determining a publisher's right to circulate, from a jury of his peers to the summary discretion of any one of many thousand individuals. The medium of mail circulation has become so useful and important to the press of the country, and would be so trammelled and obstructed by the previous submission of all matters to be transmitted to the tribunal of a licencer, that this species of consorship could be scarcely less exceptionable and oppressive than a consorship that should extend to the restraint of the actual printing of publications. On the whole, a law of this dectiption would be in such direct opposition to ously to apprehend that, under any possible circumstances, such a law can everfind a place on our statute book. They, therefore, dismiss

this branch of the subject, without further cumhibiting the circulation by mail of such publi-cations as the States shall probabit, being founded on the principles set farth in the report of, the Postmaster Ceneral, and having also, as is understood, received counterance from other counters and laws of his own State, and placing in the United States, for directing to an inhabitant of the United States, and placing in the United States, for directing to an inhabitant of the United States, and placing in the united Sta

General Government, supposing one to exist, the minorinty will proceed to inquire whether and to inquire into the manner in which it is Congress, by making State legislation the bawhich induced the argument of the Postmas-ter General is, the circulation of publications tion of "incendiary publications." Such con-

the circulation of publications should not be in-compatible with the Constitution and the laws the press," yet it contains no such prohibition on the States. Upon the subject of the press the legislation of the States is only limited by their State Constitutions, and those Constitutions are subject to no control by the General Government so long as they remain "republi-can in form." It is believed that the Consti-2. Congress might adopt the legislation of the States as the basis of its legislation; and provide that it should be an offence against the Legislatures over the press, but, without such the mail into any State any publication the mail into any State any publication the provided that it should be an offence against the power would be full and complete circulation of which was prohibited by the laws of such State. ship. It is not perceived that such a power, alarming as might be its exercise, would be an infringement of the Constitution of the United States, or that the Government of the

basis of its legislation, migne conalties of its laws to the officers of the General
Government, and provide for the punishment
of such postmasters and other persons employed by the Post Office Department as
should, knowingly, transmit through the mail
any publications prohibited by the laws of the
state into which they were directed.

State into which they were directed. State into which they were directed.

4. Congress might make it an offence against the United States for any person to send through the mail, into any of the slaveholding States, any publications which Congress might specify, as having a tendency to excite the State by mail. In relation, to publications of citizens of every other State to zend into that State by mail. In relation to publications on slaves to insurrection.

The minority are not aware that any other direct modes of legislation by Congress have been suggested, and, for the present, waiving the question of their constitutionality, they will proceed to examine the nature and character of each in its order.

State by mail. In relation to publications on of the States, the uncertain rules of the machine and beautiful to circulate such this subject of slavery, one State might enact the subject of slavery, as it is corrupt and deceitful in its boasted moralisation only as had a manifest tendency, as it is corrupt and deceitful in its boasted moralisation of the subject of slavery and defined. Whether such derivative shall be made by Congress, is an examine the nature and character of the government, in which they are defined. Whether such defined by the continue to be regulated by the continue to the subject of slavery is an examine and the subject of slavery is an examine and the subject of slavery is an examine the nature and character with the subject of slavery is an examine and the subject n censorship over all publications, for which its prohibitions to newspapers and small periodicals; a fourth might exclude the larger views and pamphlets; and a fifth might except from its prohibition the annual messages of the Governors of the several States, and speeches in Congress, while a sixth might include them. But the operation of the law would extend to all sentiments and opinions which any State might deem of dangerous tendency. State might prohibit the dissemination of Cutholic doctrine; another, that of the Pretestant; one that of one political sentiment, and another that of its opposite; and, under a law of this description, the extraordinary spec-table might be exhibited of two district courts the statute for sending by mail a publication advocating one opinion, and the other passing sentence on another individual, convicted under the same statute, for transmitting a publication of the directly opposite opinion; the one publication being, perhaps, a satisfactory and conclusive relutation of the doctrines of the other. Some of the cases enumerated may Se of improbable occurrence; but they all fall within the legitimate scope of a statute founded on a supposed obligation in Congress to probabit the mail circulation of publications offensive to the States, and are all cases for which, under such a statute, a punishmen

must be inflicted whenever they should hap-This law would possess another anomalous character, for which the minority have sought in vain for an example. It would refer to the laws of a toroign jurisdiction for the definition of the crime for which it provided a punishment; to laws which never had been, and no all the preconceived opinions of the People of ser could be, legally promulgated to the accu-this country, so abhorrent to their notions of sed. It is a legal maxim, "Ignoranti non exthe principles of civil liberty, and so otterly de-cused legen," that ignorance of the law is no structive of the freedom of the press, that the excesse to the offender, but this maxim is undersigned will not permit themselves serirecord, open to inspection, and have also been published within the jurisdiction under which the offence is committed. No presumption can arise of the legal promulgation of the The second mode of legislation, that of pro-tender, by this statute, would be punished for their violation. He who would seek to avoid the penulties of such a statute, must, in point

o be carried into effect. The particular case sis of its own, would draw to itself any condeemed but an individual argument, divested of all official character. The request of our respected friends is the more readily complied with, from the circumstance that, on a question deeply involving, as the minority believe this does, the freedom of the press, no argument denying the power of Congress over the subject has hitherto been given to the Public.

Very respectfully,

Your obedient servant,

HILAND HALL.

The minority of the Committee on the Post Office and Post Rostla, to whom was referred that part of the President's Message which residents to "the circulation in the Southern States, through the mail, of incendiary publications," it is not denied by the argument of such publications which any state is to the received as evidence of the evil tendency of particular publications, the judgment of one State is to the received as evidence of the evil tendency of particular publications, the judgment of every other State must have the same torce, and impose the same obligation on Congress. A statue, therefore, founded on this principle, would provide that it should be an affence a squisst the United States for any person to send through the mail into any State any publication of Covernment with respect, and that this Government with respect is a subject to the same to the positional power is not supposed, by the argument of the Postmaster General, as the minority understand it, to be a general power in the power as no find the Postmaster General, as the minority except gainst the United States for any person to send rection should be examined by the General through the mail into any State any publication Government with respect, and that this Govthe circulation of which might be prohibited by the lans of such State.

ornment, so far as its delegated powers will admit, should co-operate with the States in the the laws of such State.

A statute of this description would not only punish the citizen of Massachusetts before the lederal court in his State, for sending publications by mail on the subject of slavery into attac power, and supposes a new substantive Georgia, but would also punish the citizen of authority in Congress to arise from all alleged Georgia, but would also punish the citizen of authority in Congress to alse from all alleged Georgia, before the federal court in his State, obligation to co-operate with the States in carfor sending a publication on any subject into rying their laws into effect. It supposes the Massachusetts, that subject, whatever it might be, having previously come under the interdict of the law of Massachusetts. Nor would it if waked into activity, and written out at length limit the extent of the operation of this statute among its articles, would read something after to provide that the law af the State prohibiting this manner: "Whereas it is intended by this Constitution to bind Congress to co-operate with the States in the measures they may aof the United States. For it is to be observed that, although the Constitution of the United states prohibits Congress from making any law "abridging the freedom of speech, or of co-operation, by reason that no delegated power is found in this instrument enabling gress to do so, or by reason that the legisla-tion required by the States is of a character ex-pressly forbidden by some of the prohibitory clauses of this Constitution : Now, therefore, it is hereby ordained and declared, that all State laws intended to prevent resistance to State authority shall be taken and deemed as conferring the aforesaid necessary power on Congress; and the said State laws shall also have the effect to repleal, pro tanto, all the pro-hibitory clauses of the Constitution which might seem to stand in the way of the afore-

said congressional legislation."

It must be apparent that nothing short of the power here stated would be effectual General Government, in respect to foreign may have in some measure prescribed to regulate the intercourse between independent Powers, yet, in regard to the relations between the General Government and those of the States, the uncertain rules of the nature of August 7, 1789, declaring that all entitled, "An act respecting quarantine and book in the statute of August 7, 1789, declaring that all entitled, "An act respecting quarantine and book in the statute of August 7, 1789, declaring that all entitled, "An act respecting quarantine and book in the statute of August 7, 1789, declaring that all entitled, "An act respecting quarantine and book in the statute of August 7, 1789, declaring that all entitled, "An act respecting quarantine and book in the statute of August 7, 1789, declaring that all the statute of August 7, 1789, declaring that all the statute of August 7, 1789, declaring that all the statute of August 7, 1789, declaring that all the statute of August 7, 1789, declaring that all the statute of August 7, 1789, declaring that all the statute of August 7, 1789, declaring that all the statute of August 7, 1789, declaring that all the statute of August 7, 1789, declaring that all the statute of August 7, 1789, declaring that all the statute of August 7, 1789, declaring that all the statute of August 7, 1789, declaring that all the statute of August 7, 1789, declaring that all the statute of August 7, 1789, declaring that all the statute of August 7, 1789, declaring that all the statute of August 7, 1789, declaring that all the statute of August 7, 1789, declaring that all the statute of August 7, 1789, declaring that all the statute of August 7, 1789, declaring the statute of August 7, its existence can be tried by no other evidence. The minority have no hesitation in legislation over the whole subject. saying that, in their opinion, no such power have as little in declaring that no such power ought to be delegated. The prohipition of offensive publicatious is but one among the many means which a State may use to prevent insurrection. What dangers would arise from the exercise of a power of from any reference to State laws. If Con- passed by the two authorities, under these co-operation, riding above the prohibitory gress may pass the act under consideration, two powers, would frequently operate on clauses of the Constitution in other cases allowing the States for it to judge of the precisely the same thing. The same cargo than those of the circulation of offensive character of the publications to be prohibpublications, it is not now necessary to in- ited, Congress may omit to delegate power, merce, might also contain the seeds of disof the United States sitting on the same day in two different States, one engaged in passing sentence on an individual convicted under the branch of the power, the derivitive authorized the power, the derivitive authorized the power of the power, the derivitive authorized the power of the power, the derivitive authorized the power of the pow thority supposed would enable a State com-bined with Congress to subvert some of the punishment is to be inflicted. As before usual place for carrying on the business of and obligations contrary to the laws of God most valued provisions of the Constitution; shown, Congress would, by this statute, merchandise. The State, to prevent the and man, and the rights of conscience, and and coupled with the obligation under commit to the several States the power of danger of infection, might wish to prohibit therefore null and void, and hence I feel which it is alleged to arise, by placing Con- proscribing in their discretion, any and all the landing of the cargo within its port of gress and the whole People of the Union at the mercy of the State alone, would render the Constitution of little value. Of the Gargerous nature of this triumphant power in State have something the state alone, would be equally so were it a part of its antiority, and the landing of the cargo within its port of destination for a period of time. Here were two opposite independent powers, each exercising an acknowledged constitutional authority, and their legislation coming discompel Congress to prohibit the mail circu- puguing the principles of the Administralation of all publications on any subject, tion, or the conduct of its officers, should whether moral, physical, religious, or polit- have the advantage of a mail circu ation; leal; and which, at the option of a single for all these, and an indefinite variety of State, would impose on Congress the hus other publications are within the scope of miliating and solvidal act of miding by its the powers committed to the State Legislegislation in bandaging the eyes of every freeman in such State against the light of Whether Congress has the constitutional any argument it might desire to address power to pass such an act will be examined them in favor of its own just powers of hereafter.

its own means to suppress it, that it may demand of the General Government to furnish from its police, its army, its navy, or milital, a sufficient force to vindicate the supremacy of State authority; and such requisition, by the terms and spirit of the Constitution, must be obeyed. Instead of proving a legislative obligation on Congress, t seems to the minority that the language of this very article is almost, if not quite conclusive, to show that the framers of the Constitution intended to exclade from Congress the power to aid State legislation by legislation of its own. On any other suposition, how can their extreme caution be accounted for, of making the aid of the certain persons into certain States, where by General Government of purely an execu-tive character; of postponing such and united," has been supposed to be a precedent. that a previous legislative obligation existed? Or rather, if they had intended to specially of the officers of Government, but impose any such obligation, would it not, of all persons who simuld be concerned in like the executive obligation, have been expressed, and the terms and conditions of its which had prohibited, or should prohibit, execution been equally well guarded and their importation. It did not refer to the defined? But one answer can be given to State laws for a description of the offence, these questions. The power of legislative but fully defined it. Now for the constitu-aid was designed to be excluded. the fully defined it. Now for the constitu-tional ground on which this act rested. The aid was designed to be excluded. Our previous notions of this branch of 9th section of the 1st article of the consti

the States into offences against the General and limited restriction on the general pow-Government. The jurisdiction of the Gen-oral Government is confined to offences Without it, Congress might have immedi-

latures by the provisions of this act, --

The minority will now proceed to notice tion been the law of the land in 1832, it of the General Government, and provides forbearance of Congress to exercise, in a would have been entirely in the power of for the punishment of postmasters and othhimself, and every individual in the nation. hibited by the laws of the States to which neglecting to co-operate in the execution of

as Congress, by the fourth section of the fourth article of the Constitution, is bound to protect the States, "on application of the Legislature, or the Executive (when the Legislature, or domestic violence," Congress is consequently bound to withhold the use of its mails for the circulation of such publications as tend to excite violence in the States. The constitutional question involved in this argument will be examined hereafter; our first object being to acceptable the extent of this obligation on the General Government, supposing one to exist, and to inquire into the manner in which it is possesses the Constitutional power to make this law; but whether such power can be derized from the State laws, or, in other words, whether the State laws, per se, impose an obligation or confer a power on Congress, to punish its officers for violating them. The minority admit that if Congress act, might be considered as making the them. The minority admit that if Congress ossess original constitutional power over the subject, it may so punish its officers. The friends of this measure conceding that no such original constitutional power over "incendiary publications" exists, seek to derive it from the authority of State legis-lation. In favor of this decicative power, the act of the 28th of February, 1803, entitled " an act to prevent the importation of til actual violence has occurred, and then the secondary of the found to not suffering it to be given until a formal have no bearing on the question of derivative power. It was passed in virtue of an original Constitutional authority in Congress over the subject on which it operated. The act, it will be observed, was passed in 1872 and active power and the framers of this Constitution have supposed. 1803, and provided for the punishment, not constitutional law are not erroneous. A tuti n, so far as is material to this question, State cannot call on Congress to make laws is as follows: "The migration or importafor the punishment of offences against state authority, as for the punishment of larceny, arson, robbery, or resistence to State process or laws. It is not in the power of Congress to exalt offences against and eight." This article was a temporary and lightly lightly restriction on the general tow. against its own authority, and cannot by any process of mystification, be extended to offences against; the authority of the States. And if Congress cannot within the limits of a particular State convert offences against that State into offences against the United States, equally unconstitutional would be the exercise of this power of transmutation on acts committed without the State purisalisation. Although Congress to the year 1808, several of the States have the transmutation on acts committed without the State purisalisation. Although Congress to the year 1808, several of the States have Union could exert over it any legal superviston. The Constitutions which now contain
restrictions are liable to amendment and may
be remodelled to answer any objects which
of international law. For although the power to make the laws of one State the it respected those States, and under that rule of action in another, and to impose power the act under consideration was law, and supersede it by full and complete subject on which the powers of the Gen-legislation over the whole subject. subject on which the powers of the Gen-teral Government and those of the State times felt it my duty to do, partly from a The conclusion then to which we are Governments were peculiarly liable to pro- prejudice that there was an extravagant delegated by that instrument; and they drawn is, that if Congress has constitutional dince conflicting legislation. The General and wicked excitement against it and particle in declaring that no such power to legislate for the suppression of Government has the exclusive power to by through fear that I should find its lathe mail circulation of such publications as "regulate commerce with foreign nations tent principles such as a christian could not may be offensive to the States, Congress and among the States." Health regulations, approve, and hence be under obligations to may exercise that power to the fullest ex- being matters of internal police, belong ontent, and can derive no constitutional aid by to the States. The laws which might be

> in State laws, something may be seen by recurring to what has already been said of the extent of the supposed obligation from the extent of the supposed obligation from gious belief of the Arminians, the Calvinitish the power of Congress is sought to be defined as additional sought to be defined as a definition as a definition as a defined as a definition as a definition as a definition as a definitio be deduced-an obligation which might doctrines of nullineation, and none im- the States. The term reasonable is used because the act prescribes certain bounduries, beyond which Congress would not and formulas, and texts of scripture are suffer health laws to operate. This act is quoted, with alterations, and interpolations, undoubtedly, a precedent to show a commendable disposition in the General Goverament to prevent its powers from conflicting with those of the States. But it is mentioned in the scriptures, seem to be no precedent to prove that Congress can profanely referred to and trifled with, in no precedent to prove that Congress can derive any constitutional power from the the foolish and insipid tites of the society; Sinte laws, or that it can cooperate in their execution by any species of legislation pro- by ungodly members of the lodge, appears government, or against any unlawful assumption of power by such State. Had the project of the statute now under consideration which contines its penalties to the officers. It is at most, an example of the voluntary manner not forbidden, one of its acknowlthe Legislature of South Carolina, by pro-hibiting the circulation of the President's Department for knowingly transmitting Proclamation, to have made the President through the mails any publications pro-positive of south Carolina, by pro-in regard to this law, that it imposes on penalty on the officers of government for the health laws. A person appointed to duced to do as hes done the subscriber,
> The constitutional power which is claimoffice under the General Government, is abandon their councilon with an institu-

health laws legitimate regulations of commerce, Congress might doubtless have pro-vided a punishment for their violation. But so far as they remained properly health laws, the punishment could only be inflic-ted by the States. The omission of Congress to provide a punishment is evidence that they were deemed as still continuing to be purely health laws, and subject only to State punishment. The same rule must apply to "incendiary publications." So far as their circulation may be constitutionally restricted by Congress under its post office power, so far may Congress extend its penal sanctions; but, wherever its delegated powers cease, there must Congress cease to act. We are then thrown back on the question of what authority Congress possesses over "incendiary publications," by the grants of power contained in the constitution, under the restrictions on the exercise of those powers found in that instrument? - a question which will be presntly examined.

On grounds of expediency, this mode of legislation, having State legislation for its basis, is liable to the same objections with the last. It has others which are peculiarly ts own; but which, from the length to which this discussion has already been drawn, will not ve noticed in detail. The minority will barely observe, that this mode of gislation, though in form it merely provides a punishment for transmitting publi-cations, is, in substance an actual manual restraint on circulation-a restraint committed to the discretion of ten thousand independent licensers, whose powers, though absolutely despotic and irreversible, are neither limited by any certain bounda-ries, or regulated by any definite rule. This mode of legislation is, therefore, obnox-ious to at least all the objections that would belong to a plain, open, regulated censor-

[To be concluded next week.]

From the Concord Freeman. RENUNCIATION OF FREEMASON-RY.

We cut the following article from the Bosten Advocate of the 12th instant. We nations, is necessarily subject to the general rule of action in another, and to impose power the act under consideration was Boston Advocate of the 12th inetant. We rules which the moral sense of mankind within that other a punishment for their passed. It is, therefore, apparent that this wish all the adherents of the Masonic Institution were possessed of sufficient moral courage and independence of mind, to shake off the fetters of an institution, as

abandon it.

I have also been encouraged in this neglect of examination from the consideration, that some ministers and other professors of religion, still continue their connexion with the institution.

From a recent anxious and prayerful investigation of Freemasonry, I have no hesitation in saying, that I consider its pretensions to be of scripture origin, wholly and obligations contrary to the laws of God no difficulty in disowning them.

Many of its titles are such as should be given to no man, and especially to no such ersons as often hold the offices of the

I think it gives its members improper liberty to conceal crimes of the frateruity when less than murder and treason.

The name of Jesus Christ, though the Bible informs us there is salvation in no other, I find, is excluded from its prayers to suit this deistical and infidel feature of the institution.

Some of the miracles and sacred names and the ceremony of taking bread and wine to me little less than a mockery of the

communion of the saints. For these and other reasons, which might be mentioned, I carnestly wish that my friends, especially the professors of piecty, who have not yet left Freemasonry, would dispassionately re-examine its pecutiar principles, and I' hope they will be in-